IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

MONDAY, THE 28TH MAY 2007 / 7TH JYAISHTA 1929

WP(C).No. 10193 of 2006(L)

PETITIONER:
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1. SHAJI K.P., PADMALAYAM, PUNNAPPALA,
MALAPPURAM.

2. VALSARAJ P., CHIRAKKARA HOUSE,
ERAVIL, PILICODE P.O., KASARAGODE DISTRICT.

BY ADV. SMT.P.V.ASHA

RESPONDENTS:
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1. STATE OF KERALA, REP. BY SECRETARY TO
GOVERNMENT, DEPARTMENT OF GENERAL EDUCATION,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

2. DIRECTOR OF HIGHER SECONDARY
EDUCATION, THIRUVANANTHAPURAM.

3. THE KERALA PUBLIC SERVICE COMMISSION,
REP. BY ITS SECRETARY, PATTOM,
THIRUVANANTHAPURAM-4.

*ADDL. 4. SHAKKEELA A.
D/O. ABDUL MAJEED, AGED 32 YEARS
RESIDING AT “BHAITHULAMIN”
KARIPPODE POST, PALAGHAT.

ADDL. RESPONDENT NO.4 IS IMPLEADED AS PER ORDER OF THIS COURT IN I.A. NO. 16703/06 DT. 29.11.06.

BY GOVERNMENT PLEADER SMT. SREELATHA
ADV. SRI.P.C.SASIDHARAN, SC, KPSC
SRI.V.RAMKUMAR NAMBIAR
SRI.KALEESWARAM RAJ

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 28/05/2007 ALONG WITH WPC NO. 13420 OF 2006 AND CONN. CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC 10193/06

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1. COPY OF THE RELEVANT PORTION OF THE RANK LIST FOR THE POST OF HSST (SOCIOLOGY) SENIOR

EXT.P2. COPY OF THE JUDGMENT DT. 28.9.05 IN W.P.(C). 23956/05

EXT.P3. COPY OF THE ORDER NO. Ad.C4/22287/HSE/2004 DT. 4.2.06

EXT.P4. COPY OF THE G.O. (Ms) NO.337/2005/G.Edn

EXT.P5. LIST OF SCHOOLS WITH ADDITIONAL BATCHES WITH SOCIOLOGY SANCTIONED IN 2005.

EXT.P6. COPY OF THE RELEVANT PORTION OF THE LIST OF REGULARISED TEACHERS IN SOCIOLOGY DATED THIS THE 25TH DAY OF MARCH 2006.

EXT.P7. COPY OF ADVICE MEMO ISSUED TO 1ST PETITIONER BY PSC ON 10.10.06.

EXT.P8. COPY OF THE LETTEER NO.AA/23440/Info/2006 DT. 14.8.06 OF THE 2ND RESPONDENT.

EXT.P8(a). COPY OF THE LETTER DT. 21.11.06 OF THE PRINCIPAL OF GHSS, PADRE

EXT.P8(b). COPY OF THE LETTER DT. 25.11.06 OF THE PRINCIPAL OF GHSS, AYROOR SOUTH

EXT.P8(c). COPY OF THE LETTER DT. 23.11.06 OF THE PRINCIPAL OF GHSS, BELLUR.

EXT.P9. COPY OF THE LETTER DT. 28.2.07 OF PRINCIPAL, GHSS, MADIKAI

RESPONDENT'S EXHIBITS:

EXT.R4(a). COPY OF THE LIST OF SCHOOLS ISSUED BY THE 2ND RESPONDENT DT. 24.8.06.

EXT.R4(b). COPY OF THE CERTIFICATE ISSUED BY THE PRINCIPAL, G.H.S.S. PADRE, VANINAGAR, DT. 21.11.06.

EXT.R4(c). COPY OF THE LETTER ISSUED BY THE PRINCIPAL, G.H.S.S. AYIROOR, DT. 25.11.06

EXT.R4(d). COPY OF THE CERTIFICATE ISSUED BY THE PRINCIPAL OF G.H.S.S., BELLURU, KASARGODE, DT. 23.11.06.

/TRUE COPY/

PA TO JUDGE.

A.K. BASHEER, J.

W.P.(C). NOS. 10193, 13420 & 27785 OF 2006
2072, 3089 & 4332 OF 2007

Dated this the 28th day of May, 2007

J U D G M E N T

These writ petitions relate to reporting of available vacancies to the post of HSST (Sociology) from the list published by the Kerala Public Service Commission. Petitioners are candidates who had been included in the list which had already expired, and those who have been included in the fresh list. Since the issues are common and interrelated, they are being disposed of by this common judgment as agreed by the parties.

2. When W.P.(C) No.10193/06 and other connected writ petition had come up for consideration, this Court had passed the following order on August 14, 2006:

> ***"3. Learned counsel for the petitioner invites my attention to paragraph 10 in the counter affidavit filed by respondent No.2 in which it is admitted that the vacancies with regard to additional batches sanctioned in 2005 have not been reckoned for cadre strength. It is further averred that as per G.O.Ms.337/2005/G.Edn. Dated 27/8/2005, the Government had directed that only Guest Teachers would be appointed as per norms to ensure that no other staff would be engaged for that purpose. Ext.P5 list of Higher Secondary Schools in which additional batches were sanctioned in 2005 with Sociology as a subject shows that such additional batches were sanctioned in 18 Govt. Higher Secondary Schools. That means 18 additional posts of HSST in Sociology were thus created by the Government in the year 2005.***

> ***This has not been denied by respondent in the counter affidavit.***
>
> ***4. Having regard to the entire facts and circumstances, particularly to the averments made in the counter affidavit, I am satisfied that the 12 vacancies which have already been reported are liable to be advised provisionally. Ordered accordingly.***
>
> ***5. It is made clear that in the advice memo and the order of appointment to be issued to the eligible candidates in the ranked list, it shall be made clear that the advice/appointment is only provisional and subject to the final decision in the writ petition. Appropriate orders of appointment shall be issued by respondent No.2 within one month from the date of receipt of a copy of this order.***
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> ***Post after six weeks."***

3. It is brought to my notice that only six out of ten vacancies were available for PSC candidates as on July 14, 2006. Learned Standing Counsel for the Commission submits that 12 candidates were advised for admission as directed by this Court in its order dated August 14, 2006, provisionally and subject to the final decision in the writ petition.

4. I have heard learned counsel for the parties and the learned Government Pleader. In view of the intervening developments, I do not deem it necessary to refer to the various contentions raised by the candidates both in the old list , which has already expired, and in the new list, which has come into force with effect from December 30, 2006. While the candidates in the previous list contend that all the vacancies, which

were available prior to coming into force of the new list are to be allowed to be filled up from among the candidates in the old list itself, the only anxiety of the new candidates is that the ratio applicable to the various categories of candidates should not be disturbed and only those vacancies, which are available for PSC hands alone should be allowed to be filled up.

5. The area of controversy appears to be with regard to the number of seats available for PSC candidates from among the 10 vacancies mentioned above. This exercise in my view has to be done by the Departmental authorities concerned. The fact that 6 vacancies are available for PSC hands from the old list is beyond controversy. Those 6 vacancies will have to be necessarily filled up forthwith on the basis of the communal rotation, reservation etc. Therefore, the Departmental authority shall report to the PSC the exact number of PSC candidates available for appointment in the light of the additional affidavit and the other materials available on record and communicate the same to the Commission, so that the Commission can issue fresh revised advice memo to the eligible candidates. The question whether any more vacancies out of the 10 would be available for PSC hands will have to be considered by the Departmental authorities in accordance with the Rules.

6. As regards the claim of the candidates in the new list for reporting of the available vacancies to the PSC, it is made clear that the Department shall not cause any undue delay in the matter. The available

vacancies shall be reported to the PSC forthwith, at any rate, within a period of one month from the date of receipt of a copy of this judgment. It is made clear that it will be open to the candidates included in the new list to approach this Court, if they have a grievance that all the available vacancies have not been reported.

In view of the above directions, the order passed on August 14, 2006 shall stand modified to the extent indicated above. It will be open to the Commission to recall the advice memos issued already, and if necessary, to issue appropriate modified memos.

The writ petitions are disposed of as above.

A.K. BASHEER, JUDGE

vps

A.K. BASHEER, JUDGE

OP NO.20954/00

JUDGMENT

1ST MARCH, 2007